P21144.A04

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Kazushige OHNO et al.

Group Art Unit: 1754

Appl. No. : 09/926,795

Examiner: Hendrickson, Stuart L.

Filed : December 20, 2001

For : CATALYST CARRIER AND METHOD OF PRODUCING THE SAME

ELECTION WITH TRAVERSE

Commissioner For Patents
PO Box 1450,
Alexandria, Virginia 23313-1450

Sir:

This is in response to the requirement for restriction under 35 U.S.C. §§ 121 and 372 mailed from the U.S. Patent and Trademark Office on February 5, 2004. Inasmuch as the one-month shortened statutory period is originally set in the Restriction requirement to expire on March 5, 2004, this response is being filed by the initial due date for response and no Extension of Time is believed to be necessary. However, if any extension of time is necessary, this is an express request for any necessary extension of time and authorization for the Commissioner to charge any required extension of time fee or any other fees which may be required to preserve the pendency of the present application to Deposit Account No. 19-0089.

RESTRICTION REQUIREMENT

The Examiner has required restriction to one of the following inventions:

Group I: Claims 1-7 and 14, drawn to a catalyst carrier.

Group II: Claims 8-13 and 15-18, drawn to (a method of) making a catalyst carrier.

ELECTION

In order to be responsive to the requirement for restriction, Applicants elect, with traverse the invention set forth in Group I, i.e., claims 1-7 and 14.

TRAVERSE

Applicants respectfully submit that a restriction is inappropriate in this case.

The Restriction Requirement asserts that the inventions listed in Groups I and II do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they allegedly lack the same or corresponding special features. In this regard, the Restriction Requirement appears to assert that the common technical feature among the groups is the carrier, but that this feature allegedly is not inventive. In this regard, only a reference to the "search report" is made, without any further explanation.

Initially, it is noted that for the purpose of a decision on the question of restriction the claims are ordinarily assumed to be patentable (novel and unobvious) over the prior art (see,

e..g., MPEP § 806.02). For this reason alone, the Restriction Requirement should be withdrawn.

Further, in MPEP Chapter 800, the Office sets forth its policy by which examiners are guided in requiring restriction under 35 U.S.C. § 121. Section 803 states that "[i]f the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to distinct or independent inventions."

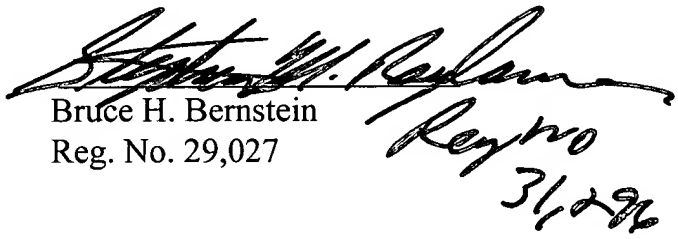
In the present case, a search for the catalytic carrier of Group I should cover many areas which are relevant for the method of Group II. Therefore, as a practical matter, the searches for the Groups should significantly overlap. Thus, the search burden would not be serious. Incidentally, the Restriction Requirement does not allege that there is a serious search burden. This is yet another reason why the Restriction Requirement should be withdrawn.

In summary, Applicants respectfully request that the Restriction Requirement be reconsidered and withdrawn, for at least the reasons set forth above.

The Examiner is reminded of the rejoinder practice set forth in MPEP § 821.04, i.e., if applicant elects claims directed to the product, and a product claim is subsequently found allowable, withdrawn process claims which depend from or otherwise include all of the limitations of the allowable product claim must be rejoined.

Should the Examiner have any questions, the Examiner is respectfully invited to contact the undersigned at the telephone number provided below.

Respectfully submitted,
Kazushige OHNO et al.



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March 4, 2004
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